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HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. NO. 843 of 2002

Petitioners

1. Praveen Kumar Pathak, aged about 32 years, S/o. Late Shri Prakash Narayan Pathak R/o. Polsaipara, Durg, P.O. & Distt. Durg (C.G.)

2. Smt. Rukhmani Pathak, aged about 70 years, Wd/o. Late Shri Prakash Narayan Pathak, R/o. Polsaipara, Durg, P.O. & Distt. Durg (C.G.). Through Power of Attorney petitioner-1

Versus

Respondents

1. State of Chhattisgarh through Secretary, Home Department, Mantralaya, Raipur (C.G.)

2. Superintendent of Police, Durg (C.G.)

3. S.K. Yadav, Town Inspector, Police Station Kotwali Durg (Old Bus-stand), Durg (C.G.)

4. Promod Pathak, aged about 35 years, S/o. Late Shri Prakash Narayan Pathak.

5. Smt. Archana Pathak, aged about 32 years, W/o. Promod Pathak, Petitioner No. 4 & 5 now illegal occupant of MIG-125, PadmanabhPur, Durg, P.O. & Distt. Durg (C.G.)

6. Amol Pathak, aged about 33 years, Practising Advocate at Durg, Bar Room No. 4, District Court, Durg, P.O. & Distt. Durg (C.G.)

7. M.K. Khan, aged about 33 years, Practising Advocate at Durg, Bar Room No. 4, District Court, Durg, P.O. & Distt. Durg (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

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(SB : Hon'ble Mr. Satish K. Agnihotri, J.)

Present :- Shri B.R. Ghosh, Advocate for the petitioners.
Shri Sumesh Bajaj, Government Advocate for the Respondents No. 1 and 2/State.

ORDER
(Passed on this 20th day of August, 2007)

1. The dispute involved in the present petition seems to be the dispute with regard to the ancestral property of the father of the petitioner No. 1 and the respondent No. 4.

2. The allegations made by the petitioners are that the respondent No. 4 has trespassed into the property of the petitioner No. 1 and petitioner No. 2 i.e. mother of the petitioner No. 1 and the respondent No. 4. A complaint under Section 151/107-116 of the Code of Criminal Procedure was registered against the petitioner No. 1 and the respondent No. 4 in the Court of the Sub-Divisional Magistrate, Durg being Case No. 856/2002. The petitioner and the respondent were discharged from all the charges. Subsequently, the petitioners have filed a case under section 145 of the Code of Criminal Procedure against the respondent No. 4. The Sub-Divisional Magistrate, Durg has already taken cognizance of the matter and the matter is at the stage of recording evidence of the respondent No. 4.

3. The petitioners have filed this petition seeking following reliefs:

> "(i) A direction kindly be issued to the state respondent-1 to register case against respondent-4 to 7 and also against respondent-3.
>
> (ii) Direction kindly be given to state respondent-1 to suspendent and transfer respondent-3 for his dereliction of duty.
>
> (iii) Direction kindly be given to state respondent-1 to conduct impartial enquiry on the basis of report annexure P/8 and bring the culprits to book.

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(iv) The state respondent-1 kindly be directed to restore possession of house MIG-125 in Padmanabhpur Durg.

(v) Compensation to the tune as may be deemed justified may kindly be directed to be paid to the petitioner-1 for the harassment meted out to him by respondent-3.

(iv) Any other relief deemed justified may also kindly be allowed to the petitioner."

4. Since the mater is subjudice and pending consideration before the Sub-Divisional Magistrate, Durg, it is not proper to interfere with the proceedings.

5. In view of the above, this writ petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

B/-